HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE

Writ Petition No.25386 OF 2002

Between

Tumburu Ranga Reddy and others ..Petitioners

AND

Government of India represented by its Secretary, Ministry of Home Affairs, and another ..Respondents

:: JUDGMENT ::

Counsel for the Petitioner: Sri V.Madhusudhan Rao

Counsel for the respondents: Sri A.Rajasekhar Reddy, Assistant Solicitor General for respondent No.1
Government Pleader for Revenue for respondent No.2

28-11-2006

Per G.S.Singhvi, CJ

In this petition, the petitioners pray for issue of mandamus to the respondents to scrutinize and consider their application for grant of pension under Swatantrata Sainik Samman Pension Scheme, 1980 (for short, '1980 Scheme').

The aforementioned prayer of the petitioners is founded on their

assertion that even though they had filed applications in 1997 and 1998 for grant of pension on the premise that they had participated in freedom struggle launched against the Nizam Government in 1947 and 1948 and with a view to avoid warrant of arrest, they remained underground, the authorities have not considered their claim for grant of pension. Along with the affidavit of petitioner No.1- T.Ranga Reddy, xerox copy of the applications submitted by the petitioners for grant of pension under 1980 Scheme have been filed.

In the counter affidavit filed on behalf of respondent No.1, it has been averred that applications submitted by the petitioners were not received by the Government of India. It has been further averred that in the absence of mandatory verification by the State Government, the claim of the petitioners for grant of pension under 1980 Scheme cannot be entertained.

Heard the learned counsel for the parties and perused the record.

Para 2.3 of 1980 Scheme which provides for grant of pension to the person who on account of participation of any freedom struggle remained underground for more than six months, reads as under:

> "2.3 Underground:- A person who on account of his participation in freedom struggle remained underground for more than six months provided he was;
>
> A. A proclaimed offender; or
> B. One on whom an award for arrest was announced; or
> C. One for whose detention, order was issued but not served.
>
> Explanation: Voluntary underground suffering of self–exile suffering for party work under the command of the party leaders, are not covered as eligible suffering for pension under the Scheme.
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> The claim of underground suffering is considered subject to furnishing of the following evidence:-
>
> 1) Documentary evidence by way Court's / Government's orders proclaiming the applicant as an absconder, announcing an award on his head or for his arrest or ordering his detention OR

2) Where records of the relevant period are not available, a non availability of records certificate (NARC) from the concerned State/ Union Territory Administration along with a Personal Knowledge Certificate (PKC) from a prominent freedom fighter who has proved jail suffering of a minimum two years and who happened to be from the same administrative unit."

A critical scrutiny of the averments contained in the affidavit of petitioner No.1 makes it clear that the petitioners have neither averred nor any material has been placed on record of the writ petition to show that the petitioners had remained underground on being declared as proclaimed offenders or on account of announcement of award for their arrest or in furtherance of detention orders issued by the competent authority. Not only this, the petitioners have not produced Non-Availability of Record Certificates issued by the State Government. Therefore, it must be held that the petitioners have failed to show that their cause falls within the parameters enumerated in the policy framed by the Government of India.

For the reason aforesaid, the writ petition is dismissed. However, keeping in view the averments contained in paragraph 17 of the counter affidavit filed on behalf of respondent No.1, liberty is given to the petitioners to file proper applications through the State Government, produce relevant documents and make efforts to persuade the concerned authority of the State Government to take action in accordance with G.O.Rt.No.1680, Revenue (FF.II) Department dated 2.8.2006.

G.S.SINGHVI, CJ

28.11.2006.
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